

House File 408 - Introduced

HOUSE FILE _____
BY KAUFMANN, GRASSLEY, and
TYMESON

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act placing restrictions and requirements relating to eminent
2 domain authority and condemnation procedures and including
3 effective date and applicability date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1366YH 83
6 md/sc/8

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1 1 Section 1. NEW SECTION. 6A.15 PROPERTY ON STATE HISTORIC
1 2 REGISTRY.
1 3 Property listed on the state register of historic places
1 4 maintained by the historical division of the department of
1 5 cultural affairs shall not be removed from the register solely
1 6 for the purpose of allowing acquisition of the property by
1 7 condemnation.
1 8 Sec. 2. Section 6A.24, subsection 3, Code 2009, is amended
1 9 to read as follows:
1 10 3. For any action brought under this section, the burden
1 11 of proof shall be on the acquiring agency to prove by a
~~1 12 preponderance of the clear and convincing~~ evidence that the
1 13 finding of public use, public purpose, or public improvement
1 14 meets the definition of those terms. If a property owner or a
1 15 contract purchaser of record or a tenant occupying the
1 16 property under a recorded lease prevails in an action brought
1 17 under this section, the acquiring agency shall be required to
1 18 pay the costs, including reasonable attorney fees, of the
1 19 adverse party.
1 20 Sec. 3. Section 6B.2C, Code 2009, is amended to read as
1 21 follows:
1 22 6B.2C APPROVAL OF THE PUBLIC IMPROVEMENT.
1 23 The authority to condemn is not conferred, and the
1 24 condemnation proceedings shall not commence, unless the
1 25 governing body for the acquiring agency ~~approves, by~~
~~1 26 resolution, declares that adequate funding for the public~~
~~1 27 improvement has been secured, that the use of condemnation for~~
~~1 28 the public improvement is approved, and that there is a~~
1 29 reasonable expectation the applicant will be able to achieve
1 30 its public purpose, comply with all applicable standards, and
1 31 obtain the necessary permits.
1 32 Sec. 4. NEW SECTION. 68B.9 BAN ON CERTAIN LOBBYING
1 33 ACTIVITIES ON BEHALF OF POLITICAL SUBDIVISIONS.
1 34 A political subdivision that collects and expends property
1 35 taxes shall not use public funds of any kind to pay a person,
2 1 organization, or other entity to act as a lobbyist in relation
2 2 to any legislation relating specifically to eminent domain
2 3 authority or condemnation procedures.
2 4 Sec. 5. Section 316.4, subsection 1, Code 2009, is amended
2 5 to read as follows:
2 6 1. If a program or project undertaken by a displacing
2 7 agency will result in the displacement of a person, the
2 8 displacing agency shall make a payment to the displaced
2 9 person, upon proper application as approved by the displacing
2 10 agency, for actual reasonable and necessary expenses incurred
2 11 in moving the person, the person's family, business, farm
2 12 operation, or other personal property subject to rules and
2 13 limits established by the department. The payment may also
2 14 provide for actual direct losses of tangible personal
2 15 property, purchase of substitute personal property, business
2 16 reestablishment expenses, storage expenses, and expenses
2 17 incurred in searching for a replacement business or farm. If
~~2 18 relocation of a business or farm operation is not economically~~

~~2 19 feasible, the displaced person may also apply for payment of~~
~~2 20 the loss of existing business relationships because of the~~
~~2 21 inability to relocate the business or farm operation to a~~
~~2 22 location similar in economic advantage to the location from~~
~~2 23 which the business or farm operation was displaced.~~

2 24 Sec. 6. EFFECTIVE AND APPLICABILITY DATES. This Act,
2 25 being deemed of immediate importance, takes effect upon
2 26 enactment and applies to projects or condemnation proceedings
2 27 pending or commenced on or after that date.

2 28 EXPLANATION

2 29 This bill places various restrictions and requirements on
2 30 the use of eminent domain authority and condemnation
2 31 procedures.

2 32 The bill provides that property listed on the state
2 33 register of historic places shall not be removed from the
2 34 register solely for the purpose of allowing the property to be
2 35 acquired by condemnation.

3 1 The bill changes the standard of proof on the acquiring
3 2 agency from a preponderance of the evidence to clear and
3 3 convincing evidence for an action brought in district court
3 4 challenging the exercise of eminent domain authority or
3 5 contesting condemnation proceedings.

3 6 The bill provides that the authority to condemn property is
3 7 not conferred, and condemnation proceedings shall not
3 8 commence, until the governing body of the acquiring agency has
3 9 declared that adequate funding for the public improvement has
3 10 been secured.

3 11 The bill prohibits a political subdivision that collects
3 12 and expends property taxes from using any public funds to pay
3 13 a person, organization, or other entity to lobby on any
3 14 legislation relating specifically to eminent domain authority
3 15 or condemnation procedures.

3 16 The bill provides that if relocation of a business or farm
3 17 operation is not economically feasible, the displaced person
3 18 may apply for payment of the loss of existing business
3 19 relationships because of the inability to relocate the
3 20 business or farm operation to a location similar in economic
3 21 advantage to the location from which the business or farm
3 22 operation was displaced.

3 23 The bill takes effect upon enactment and applies to
3 24 projects or condemnation proceedings pending or commenced on
3 25 or after that date.

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